

**2002 AGREEMENT FOR THIRD PARTY ENERGY EFFICIENCY  
IMPLEMENTERS**

**June \_\_, 2002**

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**The Utilities will use all or some of the following Attachments**

**Attachment A**

- Deliverable Schedule for Quarterly Reports dated June \_\_, 2002
- Implementation Report dated \_\_, 2002
- Implementer’s Program Implementation Plan filed with the CPUC on May \_\_, 2002 and approved on \_\_\_\_\_, 2002
- Implementer’s Proposals with attachments, as approved by the CPUC on May 16, 2002

**Attachment B**

CPUC Reporting Requirements dated May 17, 2002, as modified from time to time by the CPUC’s Energy Division

**Attachment C**

Implementer’s Evaluation and Measurement plan (if applicable)  
to be developed/due 30 days after the Implementer selects a contractor from the Commission-approved list of EM&V contractors, but in no case later than 60 days after the Commission issues an approved list.

**Attachment D**

Specific Contract Conditions, for use consistent with specific projects and IOU business practices

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_th day of June \_\_\_\_, 2002, by and between \_\_\_\_\_, a \_\_\_\_\_ corporation ("Implementer"), and IOU \_\_\_\_\_, a California corporation ("Utility" or "IOU"). Utility and Implementer are also each individually referred to herein as "Party" and collectively as "Parties."

### RECITALS

WHEREAS, Decision 01-11-066 adopted policy rules and procedures to be followed for energy efficiency programs in 2002 in the text of the decision and in the Energy Efficiency Policy Manual (Version 1) dated November 29, 2001 ("Policy Manual") attached to the decision;

WHEREAS, pursuant to Decision 01-11-066, the California Public Utility Commission ("CPUC"), requested proposals from parties interested in performing energy efficiency work in the service territories of Pacific Gas & Electric ("PG&E"), Southern California Edison Company ("SCE"), Southern California Gas Company ("SoCalGas") and/or San Diego Gas & Electric Company ("SDG&E");

WHEREAS, in response to this request, Implementer submitted a proposal to the CPUC to provide energy efficiency;

WHEREAS, on May 16, or June 6, 2002 the CPUC selected and approved (or approved with modifications), Implementer's proposed scope of work (hereafter "Proposal");

WHEREAS, pursuant to D. 01-11-066, D.02-03-056 and D.02-05-046, the CPUC has directed PG&E, SCE, SoCalGas, and SDG&E to develop a standard agreement and to enter into contracts with such parties to memorialize the terms and conditions for payment for the authorized work to be performed in their respective service territories;

WHEREAS, on June \_\_, 2002, the assigned Administrative Law Judge ("ALJ") in OIR 01-08-028 approved the use of this standard form agreement by IOU and Implementer as a mechanism for payment of the approved services to be rendered by Implementer in 2002, 2003 and 2004.

## AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recital, the mutual covenants contained herein, the Parties agree as follows:

### **1. DEFINITIONS**

The following terms shall have the following meanings, whether capitalized or not, singular or plural:

“Agreement” or “Contract”: This agreement between IOU and Implementer, including the Appendices.

Information-Only Programs: Programs with no demonstrable energy savings.

Hard-to-Reach Customers: The term “hard-to-reach” can apply to either residential or non-residential customers. Residential hard-to-reach customers are those customers who do not have easy access to program information or generally do not participate in energy-efficiency programs due to a language, income, housing type, geographic, or home ownership (split incentives) barrier.

These barriers are defined as:

- Language – Primary language spoken is other than English, and/or
- Income – Those customers who fall into the moderate income level (income levels less than 400% of the federal poverty guidelines), and/or
- Housing Type – Multi-Family and Mobile Home Tenants, and/or
- Geographic – Residents of areas other than the San Francisco Bay Area, San Diego area, Los Angeles Basin or Sacramento, and/or
- Homeownership – Renters

Non-residential hard-to-reach are those customers who do not have easy access to program information or generally do not participate in energy efficiency programs due to language, business size, geographic, or lease (split incentives) barrier. These barriers are defined as:

- Language – Primary language spoken is other than English, and/or
- Business size – Less than ten employees and/or classified as Very Small (customers whose annual electric demand is less than 20 kW, or whose annual gas consumption is less than 10,000 therms, or both), and/or
- Geographic – Businesses in areas other than the San Francisco Bay Area, San Diego area, Los Angeles Basin or Sacramento, and/or
- Lease – Investments in improvements to the building benefit the business only during the lease period; landlords benefit longer.

Savings Programs: Programs with demonstrable energy savings.

## **2. APPENDICES INCORPORATED BY REFERENCE**

The following Appendices and are made part of this Agreement:

(see list on Table of Contents)

Attachment A

Attachment B

Attachment C Attachment D

## **3. IMPLEMENTER'S OBLIGATIONS**

Implementer shall perform the work described in **Attachment A**, which is attached hereto incorporated herein by this reference, in accordance with the requirements of applicable CPUC decisions ("Authorized Work").

Implementer hereby acknowledges that time is of the essence in performing the Authorized Work. Failure to comply with stated deadlines or milestones, may result in termination of this Agreement, payments being withheld, or program modifications as directed by the assigned ALJ.

Implementer may request that the assigned ALJ or CPUC Agreement Representative approve modifications to the Authorized Work.

Implementer shall communicate regularly with the assigned IOU Agreement Representative and shall advise the IOU Agreement Representative of significant problems. Implementer will strive to address minor issues or problems on its own.

### **3.1 Professional Standards**

Implementer shall perform the Authorized Work, and shall furnish required labor, equipment and material with the degree of skill and care that is required by current professional standards.

### **3.2 Required Reports**

Implementer shall submit Quarterly Reports to the IOU and CPUC Agreement Representatives. The reports shall contain all information and be in format set forth in **Attachment B\*\***:

In addition to the Quarterly Reports, Implementer shall also submit Monthly Reports no later than the 21st calendar day of the month following performance of Authorized Work. The report shall contain all information and be in format set



forth in **Attachment A** and **Attachment B**. The first report shall be due the first month after Contract execution.

### **Other Reports**

Implementer shall submit the Required Reports according to the following schedule:

<b>Report</b>	<b>Due Date</b>
<b>Implementation Report Addressing Following Issues (as set forth in D.02-05-056):<sup>1</sup></b> <ul style="list-style-type: none"><li>• Coordination with Other Energy Efficiency Programs</li><li>• Coordination With LIEE Programs (<i>IOU programs and Implementer's own programs</i>)</li><li>• Responding to and tracking customer complaints</li><li>•</li><li>• Customer Disclosure text</li><li>•</li></ul>	10 days following execution of this Agreement
<b>Evaluation, Measurement and Verification Plan</b>	30 days after the Implementer selects a contractor from the CPUC-approved list of contractors
<b>Monthly Report</b> (Report covering prior month's activities, accomplishments and expenditures)	On or before the 21st calendar day of the month following performance

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<sup>1</sup>The Implementation Report need only address applicable issues that were not adequately covered in the Program Implementation Plan.

<b>Report</b>	<b>Due Date</b>
<b>Q-3 2002:</b> Report covering third quarter of 2002 and any second quarter activities (July – September)	On or before November 1, 2002
<b>Q-4 2002:</b> Report covering fourth quarter of 2002 (October – December)	On or before February 1, 2003
<b>Q-1 2003:</b> Report covering first quarter of 2003 (Jan – Mar)	On or before May 1, 2003
<b>Q-2 2003:</b> Report covering second quarter of 2003 (April – June)	On or before August 1, 2003
<b>Q-3 2003:</b> Report covering third quarter of 2003 (July – September)	On or before November 1, 2003
<b>Q-4 2003:</b> Report covering fourth quarter of 2003 (October – December)	On or before February 1, 2004
<b>Final Reports (Program Evaluation)</b>	On or before May 1, 2004

All reports shall be submitted to the IOU and CPUC Agreement Representatives for their review, comment and approval no later than the due date listed above. Implementer shall provide additional information to the IOU or CPUC Agreement Representative if requested.

Implementer hereby agrees that providing the information and reports described in this section is a prerequisite to receiving the payments referred to in Section 6.

### **3.3 Stop Work Procedures**

The IOU Agreement Representative may suspend the Authorized Work for good cause, such as safety concerns, fraud, or excessive customer complaints. IOU may suspend the Authorized Work by orally notifying the Implementer's Agreement Representative to suspend the Authorized Work, followed by written notice pursuant to Section 25, below and obtaining the concurrence of the CPUC Agreement Representative as soon as practicable. If the IOU Agreement Representative suspends the Authorized Work, Implementer may complete Authorized Work that it has started at a customer site, but may not begin any new Authorized Work at any new customer sites. Implementer may resume Authorized Work after receiving written notice from IOU that it may resume the Authorized Work.

### **3.4 Coordination With Other Programs**

Implementers shall coordinate with other existing or selected programs, including programs targeting low-income customers, to enhance consistency in rebates and other program details, minimize duplicative administrative costs, and enhance the possibility that programs can be marketed together to avoid

duplicative marketing budgets. The IOU shall give Implementer the list of its programs no later than the date it signs the contract.

In its Implementation Report, Implementer shall list programs with which it could coordinate, and describe proposed coordination activities including a time line for each activity. IOU shall review the list of programs and proposed coordination activities, and either approve or suggest changes. Implementer shall incorporate all changes required by the CPUC Agreement Representative. Implementers shall describe in each quarterly report all coordination activities with other energy efficiency programs.

### **3.5 Coordination With Low Income Programs**

This Section shall only apply to Authorized Work that includes an energy efficiency measure that is included in the IOU Low-Income Energy Efficiency program.

Implementers shall inform all customers about the Low-Income Energy-Efficiency ("LIEE") and California Alternate Rates for Energy (CARE) programs, including eligibility requirements. Implementer shall then ask customers if they are LIEE or CARE-eligible customers, and shall provide written information about the LIEE and CARE programs, including how the customer may participate in the programs and whom they need to contact to participate in LIEE or CARE, to any customer who requests such information before attempting to sell any programs or measures with a cost to a customer who self-identifies as CARE and/or LIEE eligible.

No later than the date it signs the contract, IOU shall provide Implementer with a description of its CARE and LIEE programs, including information for distribution to customers about CARE and LIEE requirements, benefits and whom the customer must contact to participate in the program.

In the Implementation Report, Implementer shall submit to IOU a list of measures that require coordination with low-income programs, and its plan for ensuring compliance with this Section. self-identifies as LIEE or CARE-eligible. The IOU shall review this information and either approve it or suggest changes. Implementer shall make any changes required by the CPUC Agreement Representative.

### **3.6 Prevention of Double-Dipping**

Implementer shall implement the following mechanism to minimize double dipping:

3.6.1. IOU shall provide Implementer with a list of IOU programs and third party programs that it administers which offer services or incentives for the same measures offered by Implementer's program. The IOU shall give Implementer the list of its programs no later than the date it signs the contract

3.6.2. Prior to providing incentives or services to an eligible customer ("Customer") for an energy efficiency measure(s), Implementer shall inform the Customer of other available programs, including the free IOU LIEE program, which offer incentives or services for the same measure(s).

3.6.3. Prior to providing incentives or services to Customer for an energy efficiency measure, Implementer shall obtain a signed form from Customer stating the following:

- 1) Customer has not received incentives or services for the same measure from another utility, state, or local program;
- 2) Customer agrees not to apply for or receive incentives or services for the same measure from another utility, state, or local program; and
- 3) Customer acknowledges that he or she has received information about other available program(s), including the free LIEE program, which offer incentives or services for the same measure(s) that the customer may be eligible for.

3.6.4 Implementer shall keep the Customer-signed forms for at least three years after the end of the contract. In addition, Implementer shall submit the Customer-signed forms to the CPUC or IOU upon request.

### **3.7 Responding to and Tracking Customer Complaints**

In its Implementation Report, Implementer shall submit a description of how it will address and track customer complaints. The IOU shall review this information and either review or suggest changes. Implementer shall incorporate all changes required by the CPUC agreement representative. At a minimum, Implementer's program materials shall contain a description of how a customer can complain first to the Implementer, then to the IOU, and finally to a contact person at the CPUC's Energy Division. Implementer shall track all customer complaints that it receives through mechanism that it describes in the program materials and report on all complaints in its Quarterly Reports. Implementer shall maintain a log of all customer complaints it receives, and shall retain that log for at least three years after the end of the contract.

### **3.8 Customer Disclosure Obligations**

Implementers shall prominently disclose to customers, orally and in writing, that customers are not obligated to purchase any full fee service or other service

beyond that which is funded through the Public Goods Funds. The text of the disclosure must be in both English and Spanish.

All providers shall provide the text of their disclosure in English and Spanish in their Implementation Report. Implementers shall make any changes to the oral or written disclosure requested by the CPUC Agreement Representative.

### **3.9 Committing Funds**

Implementer shall be required to “commit” all funds no later than December 31, 2003. Funds are considered “committed” if the program implementer has executed a written agreement and/or reserved funds for Authorized Work, including administrative costs, but has not yet made payment.

### **3.10 End Date For Program Activities**

Unless this Agreement is terminated pursuant to Section 17 below, Implementer shall complete all program activities by no later than March 31, 2004, including final installations, evaluation, measurement and verification, and preparation for final reports.

### **3.11 Cost Reporting and Review**

#### **3.11.1 Actual Cost Reporting Requirements**

Implementer’s actual costs for the Authorized Work must be reported to the IOU Agreement Representative in each Quarterly Report. See **Attachment B** for the specific reporting requirements.

#### **3.11.2 Cost Reasonableness**

All costs, including subcontractor costs, shall be reasonable, ordinary and necessary and shall be reported at actual cost with no mark-up, i.e. profit, administrative or other indirect costs. Using the Implementer’s approved budget, the IOU Agreement Representative may review all reported costs, including labor hours spent on particular tasks. The IOU reserves the right to reduce costs, including labor hours, with the concurrence of the CPUC agreement representative if they are excessive, unreasonable, not ordinary or necessary. Any reduced costs shall be used when calculating actual costs expended, below.

#### **3.11.3 Cost Allocation Methodology**

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Implementer shall respond to questions or requests from IOU or CPUC Agreement Representative on how it has calculated or allocated costs listed in **Attachment B**, and shall make any changes, consistent with the budget format and definitions approved by the CPUC, requested by the IOU with the concurrence of the CPUC Agreement representative.

#### **3.11.4 Subcontractor Costs/Activities**

Implementer shall report amount paid to each subcontractor during the applicable reporting period, plus total amount paid to all subcontractors during that period. Implementer shall report name of subcontractor plus brief description of services subcontractor provided during the applicable reporting period. Subcontractor costs shall be reported at cost with no mark-up (i.e. profit, or administrative or other indirect costs). Subcontractor costs shall be reported according to format contained in **Attachment B**.

#### **3.11.5 Supporting Documentation**

For each expense item over \$100, supporting data and documentation shall be furnished with the invoice. Copies of detailed expense reports to support travel costs shall be attached to the invoice. Although travel receipts need not be attached, Implementer shall retain them for three years after the end of the contract. Each invoice shall be assembled such that attached supporting documentation shall be placed in the order listed in the invoice.

#### **3.11.6 Quarterly Payments – Payments Compared to Costs**

If (total payments received + payments claimed) minus total actual costs expended as reported according to **Attachment B** exceed 15% of the total contract amount, then the IOU will not authorize any further payments until the IOU receives written permission from the ALJ to authorize payment.

#### **3.11.7 Final Payment – Total Payments Compared to Total Costs**

For final payment, Implementer agrees that if its actual costs expended for the Authorized Work are less than the Total Authorized Amount stated in Section 6, excluding profit:

1. With the concurrence of the CPUC Agreement Representative and the IOU Agreement Representative, Implementer shall perform additional tasks not specified in Attachment A that are consistent with the purpose and nature of the Authorized Work described in Attachment A. For example, Implementers could install additional measures of the same type described in Attachment A. The additional tasks shall be described with specificity in writing, and shall be approved in writing by the Implementer, the CPUC Agreement Representative, and the IOU Agreement Representative or,

2. The IOU may, under the written direction of the ALJ, make reductions in Implementer's final payment.

### **3.12 Responding To Requests for Information**

During the term of this Agreement, Parties shall respond to all requests for information from the other Party and/or the CPUC Agreement Representative in a timely fashion, but no later than five days after the date the information is requested, unless the Party asks for an extension of time and such extension of time is granted by the requesting party(ies). Parties are expected to request only such information that is relevant and necessary for the performance of obligations of this Agreement and to, meet and confer in an effort to resolve disagreements about requests for information before seeking guidance from the CPUC Agreement Representative and/or the assigned ALJ.

## **4. UTILITY OBLIGATIONS**

### **4.1 Summary of IOU Administrative Duties**

IOU is executing this Agreement as the designated administrator for the CPUC for the limited purpose of administering this agreement. IOU shall oversee the administration of Implementer's Authorized Work as set forth in D.02-03-056, D.02-05-046 and other applicable CPUC decisions and rulings.

IOU's primary administrative responsibilities are to oversee Implementer's work, receive and review all required documents and other pertinent program information, serve as a liaison between the CPUC and Implementer, and timely and transfer PGC payments to Implementer for Authorized Work in accordance with the applicable CPUC-approved payment schedule(s) as set forth herein.

### **4.2. IOU Review of Required Reports**

The IOU shall review all submitted reports to determine whether they contain the information required by this Agreement, including, but not limited to **Attachment A** and **Attachment B**, and that the information is in the format specified herein.

IOU shall review all submitted reports to determine whether they (a): comply with the Authorized Work as set forth in **Attachment A**; (b) comply with CPUC requirements (e.g., CPUC's Policy Manual, Chapter 6, Reporting Requirements), and (c) include all information reasonably necessary to allow the IOU and the CPUC to monitor the progress of the Authorized Work. IOU shall complete its review of the reports and any accompanying invoices within 30 days of submission.

#### **4.2.1 Quarterly Reports Deemed Incomplete**

If the information contained in a required report and/or invoice is incomplete or not in the proper format, the IOU shall return report to the Implementer who may make corrections and resubmit the report and/or invoice. IOU shall have 10 days to review the resubmitted report and/or invoice.

If, Implementer has not completed tasks or achieved goals set forth in Attachment A, IOU will identify deficiencies in Implementer's progress to the CPUC Agreement Representative with recommendation on how to proceed. After IOU consults with the CPUC Agreement Representative, IOU will notify Implementer of the deficiency in writing. IOU will not authorize payment to Implementer until the IOU has received permission from the CPUC Agreement Representative to make a quarterly payment. The IOU shall make payment within 15 business days of payment authorization.

If the IOU identifies deficiencies in Implementer's progress, the IOU will work with the CPUC and Implementer Agreement Representatives to determine what further actions Implementer must take to receive the next quarterly payment.

#### **4.2.2 Quarterly Reports Deemed Complete**

If, , Implementer has completed tasks or achieved the goals as set forth in **Attachment A**, IOU will authorize payment and will notify the Implementer Agreement representative that payment is authorized. The IOU shall make payment within 15 business days of payment authorization.

### **4.3 Review of Implementer's Final Report**

Once the IOU determines that the final report is correct and complete, it shall notify the CPUC Agreement Representative. The assigned Administrative Law Judge (ALJ) for OIR 01-08-028, in consultation with the CPUC's Energy Division, shall approve final program payments to Implementer. IOU will not authorize payment to Implementer until the IOU has received written permission from the ALJ to make the final payment.

Release of the final payment is contingent on program performance as determined by the ALJ. The ALJ may make proportionate reductions in the final payment amounts for programs that, do not meet program goals. The proportionate reduction to the final payment will be determined by the ALJ.

### **4.4 Payment Reductions**



Implementer agrees that the CPUC reserves the right to make reductions in Implementer's final payment (a) in the event of defective performance; (b) program failure; and/or (c) Implementer's actual costs for performing the Authorized Work are less than the Total Authorized Amount stated in Section 6, and Implementer performs no additional measures as discussed in Section 3.11.1.

#### 4.5 Payment Schedule

IOU shall transmit payments to Implementer as follows:

#### **PAYMENT AMOUNTS<sup>2</sup>**

#	Program Type	% Payment
<b>Information-only programs</b>		
1	CPUC acceptance of final program implementation plan	35%

<sup>2</sup> The payment schedule must be tailored to individual contracts and will depend on following: total contract amount, whether contract is information-only or savings, and whether Implementer claims profit or not. Per Policy Manual Table 5.3 Payment Schedules, Information-only programs get 35% of payments upon CPUC (ALJ) acceptance of final program implementation plans; savings programs get 25% on CPUC acceptance of final PIP. Per D.02-05-046, mimeo page 28, final program payment amounts will be set for each program individually, based on the amount of profit embedded in each program budget. For programs where no profit is built into the budget, the final payment amount will be set at 20% of the program's administrative budget

2		(65% minus final payment percent which varies) divided by number of monthly reports
3	6 equal payments, (assuming program activities occur in 6 quarters) less the amount of Direct Implementation Costs paid on a monthly basis and any reductions pursuant to Section 3.11	
	Q3– 2002report submitted on or before November 1, 2002	
	Q4-2002 report submitted on or before February 1, 2003	
	Q1-2003 report submitted on or before May 1, 2003	
	Q2- 2003 report submitted on or before August 1, 2003	
	Q3-2003 report submitted on or before November 1, 2003	
	Q4-2003 – report submitted on or before February 1, 2004	
	Final Report due on or before May 1, 2004.	
	<b>Final Payment (profit included)</b>	
	<b>Final Payment – (no profit included)</b>	

<b>Non-information programs</b>		
1	CPUC acceptance of final Program Implementation Plan	25%
2	CPUC acceptance of evaluation, measurement, and verification plan	10%
3	6 equal payments (assuming that program activities occur in 6 quarters) less the amount of Direct Implementation Costs paid on a monthly basis and any reductions pursuant to Section 3.11	(50% minus final payment percent) divided by number of monthly reports
	Q2 – report submitted on or before November 1, 2002	
	Q3- report submitted on or before February 1, 2003	
	Q4- report submitted on or before May 1, 2003	
	Q5- report submitted on or before August 1, 2003	
	Q6- report submitted on or before November 1, 2003	
	Q7 – report submitted on or before February 1, 2004	
	Final Report due on or before May 31, 2004.	
4	Final Payment – <b>(profit included)</b>	20%
	Final Payment – <b>(if no profit included)</b>	15%

Utility shall transmit payment to Implementer as specified above in Section 4.3 within thirty (30) days of payment authorization, but is not obligated to pay sooner than dates listed in table above, even if Implementer has completed tasks or achieved the goals as set forth in **Attachment A**.

Payment Schedule for Direct Implementation Costs: Implementer will invoice monthly for Direct Implementation expenditures. Each monthly invoice will include backup documentation for the claimed costs, and will be submitted along with the Monthly Report.

#### **4.6 Withholding Payment for Deficient Performance**

As set forth above in Section 2.2 and Section 2.3, the IOU with the concurrence of the assigned ALJ may, upon written notice to Implementer, withhold from Implementer, all or part of a payment if a report submitted by the Implementer demonstrates that a program failure has occurred and that such failure significantly compromises the purpose and goals of the program. If the IOU has withheld payment for program failure, the IOU shall authorize payment within five (5) business days of the implementation of measures by Implementer to cure the program failure and as specified by the IOU.

#### **4.7 Refund of Overpayment of PGC Funds**

With respect to any amount subject to refund to the CPUC pursuant to D.02-03-056, or any subsequent CPUC decision or ruling, should the CPUC determine that a refund is due and seeks to recover such refund, Implementer shall return

the amount due to IOU within thirty (30) calendar days of the date Implementer receives written notice that the payment is owed.

## **5. AGREEMENT REPRESENTATIVES**

The CPUC's Agreement Representative, as designated by the CPUC, for all matters related to performance of the Authorized Work under this Agreement is \_\_\_\_\_ (name).

Implementer designates \_\_\_\_\_ (name) as Implementer's Agreement Representative for all matters relating to performance of the Authorized Work under this Agreement.

IOU designates \_\_\_\_\_ (name) as [Utility's] Agreement Representative for all matters relating to payment of money for the Authorized Work pursuant to this Agreement.

The CPUC, the Implementer or the Utility may change their respective Agreement Representative at any time by providing written notice of the change to the other parties.

## **6. COMPENSATION AND PROFIT**

Implementer agrees to accept the fees set forth herein as full compensation for all of Implementer's expenses incurred in the performance of the Authorized Work, including profit and applicable taxes, unless otherwise expressly so provided.

**CPUC APPROVED TOTAL AMOUNT FOR AUTHORIZED WORK:**

**\$** \_\_\_\_\_

**CPUC APPROVED PROFIT PERCENTAGE: \$** \_\_\_\_\_ **(if applicable)**

## **7. TIME IS OF THE ESSENCE**

The Parties hereby acknowledge that time is of the essence in performing the duties under this Agreement. Failure to comply with stated deadlines or milestones may result in termination of this Agreement, payments being withheld, or other program modifications as directed by the assigned ALJ.

## **8. EFFECTIVE DATE**

This Agreement shall become effective on the later of the date that is signed by both the IOU and Implementer and/or the fifth business day following CPUC approval as set forth below in Section 32.2.

## **9. RESTRICTIONS ON MARKETING**

### **9.1 Use Of CPUC's Name**

Implementer may use the name of the CPUC on marketing materials for its program with the prior written approval from the CPUC Energy Division. In order to obtain this written approval, Implementer must send a copy of the planned materials to the Energy Division requesting approval to use the CPUC name and/or logo. A copy of the materials should also be sent to the IOU.

Notwithstanding the above, the Implementer shall disclose its source of funding by stating prominently that its program is "funded by California ratepayers under the auspices of the California Public Utility Commission" in all materials distributed.

### **9.2 Use of IOU's Name**

Implementer may not use IOU's name or logo on marketing materials for its program. Implementer further agrees not to state or imply to third parties that IOU has endorsed or approved Implementer or its work.

## **10. COMPLIANCE WITH APPLICABLE LAWS**

Each Party shall comply with all applicable federal, state and local laws, rules and regulations, and shall obtain all applicable licenses and permits for the conduct of the Authorized Work.

## **11. WARRANTY**

Implementer warrants to the CPUC that the Authorized Work shall be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Work is performed so as to ensure that the services performed are correct and appropriate for the purposes contemplated in this Agreement.

## **12. SAFETY PRECAUTIONS AND PROTECTION OF PROPERTY**

Implementer shall plan and conduct the Authorized Work to safeguard persons and property from injury. Implementer shall direct performance of the Authorized Work in compliance with reasonable safety and work practices and applicable federal, state and local laws, rules and regulations, including but not limited to,

"Occupational Safety and Health Standards" promulgated by the U.S. Secretary of Labor and the California Division of Occupational Safety and Health.

### **13. INSURANCE**

Implementer shall maintain the following insurance coverage or self insurance coverage at all times during the term of this Agreement. Implementer is also responsible for its subcontractors maintaining the insurance coverage listed in this Agreement. Failure to maintain the required insurance shall be grounds for termination of this Agreement.

Workers' Compensation and Employers' Liability: **statutory minimum.**

Commercial General Liability: **\$1 million minimum.**

Coverage shall: a) By "Additional Insured" endorsement add as insureds Utility, their affiliates, subsidiaries, and parent companies, and Utility' directors, officers, agents and employees with respect to liability arising out of or connected with the Work performed by or for the Implementer. (ISO Form CG2010 or equivalent is preferred.) In the event the Commercial General Liability policy includes a "blanket endorsement by contract," the following language added to the certificate of insurance will satisfy Utility' additional insured requirement: "Utility, their affiliates, subsidiaries, and parent companies, and Utility's directors, officers, agents and employees with respect to liability arising out of the work performed by or for the Implementer are additional insureds under a blanket endorsement."; b) Be endorsed to specify that the Implementer's insurance is primary and that any insurance or self-insurance maintained by Utility shall not contribute with it.

Business Auto (if applicable): **\$1 million minimum.**

Professional Liability Insurance (if applicable): **\$1 million minimum.**

Upon request, Implementer shall furnish IOU and the CPUC Agreement Representative with certificates of insurance and endorsements of all required insurance for Implementer and subcontractors. The documentation shall state that coverage shall not be canceled except after thirty (30) days prior written notice has been given to Utility. The documentation must be signed by a person authorized by that insurer to bind coverage on its behalf.

#### **13.1 Self Insurance.**

If Implementer is self-insured, Implementer must forward documentation to the IOU that demonstrates to the IOU's satisfaction that Implementer self-insures as

a matter of normal business practice before commencing the Authorized Work. The IOU will accept reasonable proof of self-insurance comparable to the above requirements.

#### **14. INDEMNIFICATION**

Implementer shall indemnify, hold harmless and defend the CPUC and IOU, its affiliates, subsidiaries, parent companies, officers, managers, directors, agents, and employees, from and against all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) which arise from or are in any way connected with this agreement, including :

(a) injury to or death of persons, including but not limited to employees of IOU or Implementer;

(b) injury to property or other interests of the CPUC, IOU, Implementer, or any third party;

(c) violation of a local, state or federal common law, statute or regulation, including but not limited to, environmental laws or regulations; or

(d) strict liability imposed by any law or regulation; so long as such injury, violation, or strict liability (as set forth in (a) – (c) above) arises from or is in any way connected with Implementer's performance of, or failure to perform, this Agreement, however caused, regardless of any strict liability or negligence of the CPUC or IOU, whether active or passive, excepting only such loss, damage, cost, expense, liability, strict liability, or violation of law or regulation that is caused by the sole negligence or willful misconduct of the CPUC or IOU, its officers, managers, or employees.

Implementer shall, on the CPUC or IOU's request, defend any action, claim, or suit asserting a claim which might be covered by this indemnity. Implementer shall pay all costs and expenses that may be incurred by the CPUC or IOU in enforcing this indemnity, including reasonable attorney's fees.

#### **15. SUBCONTRACTS**

Implementer shall contractually require each subcontractor retained to perform the Authorized Work, to be bound by the terms and conditions in this Agreement protecting IOU and the CPUC which are substantially equivalent to the terms and conditions of this Agreement.

Implementer shall, at all times, be responsible for the work, and acts and omissions, of subcontractors and persons directly or indirectly employed by them in connection with the Authorized Work. This Agreement shall not constitute a contractual relationship between any subcontractor and the CPUC or IOU nor any obligation for payment to any subcontractor.

## **16. DISPUTE RESOLUTION**

Implementer shall try to resolve disagreements relating to this Agreement first with the IOU, and if that fails, then with the CPUC Agreement Representative. If that fails, the Implementer, the CPUC and IOU shall deal in good faith and attempt to informally resolve potential and actual disputes arising out of or relating to this Agreement promptly by negotiations between a duly-appointed representative of the CPUC, a vice president of IOU or his or her designated representative and an executive of similar authority of Implementer, as applicable. Either Party or the CPUC may give the other entities written notice of any dispute within ten (10) days from the date that the dispute arose. Within twenty (20) calendar days after delivery of said notice, the executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute, which if the Parties agree, shall include non-binding mediation by a neutral third party. If the matter has not been resolved within thirty (30) calendar days of the first meeting through one of the foregoing methods, either Party may initiate a binding arbitration of the controversy utilizing the American Arbitration Association.

All negotiations, mediation and/or arbitration conducted pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and Section 1119 is incorporated herein by reference.

Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo.

Each Party and the CPUC is required to continue to perform their obligations under this Agreement that are not related to the dispute, pending final resolution of a dispute arising out of or relating to this Agreement.

If the dispute is resolved in favor of Implementer, in whole or in part, at any stage of the dispute resolution process, the CPUC shall authorize payment of all or a portion of the withheld amounts within five (5) business days of such resolution. Once the CPUC agreement representative authorizes payment, IOU shall transmit payment to Implementer within 10 business days of receipt of written notice of CPUC authorization.

## **17. TERMINATION**

Implementer may terminate this Agreement for any reason by providing 30 calendar days advance written notice to the CPUC Agreement Representative and IOU. In the event the Agreement is terminated by Implementer, IOU shall, upon receipt of CPUC approval, pay Implementer all amounts owed under the Agreement for undisputed work performed prior to the effective date of the



termination notice. If Implementer's actual costs are less than payments implementer received before effective date of termination notice, Implementer shall refund unspent dollars to the Utility for refund to the Public Goods Charge Balancing account. The CPUC shall be responsible for determining disposition of unspent or refunded dollars.

The CPUC may direct the IOU to terminate this Agreement for cause, or upon depletion of the amount of funding authorized by the CPUC for this Agreement. In the event the Agreement is terminated by IOU upon CPUC direction, IOU shall, upon ALJ approval, pay Implementer all amounts owed under the Agreement for undisputed work performed prior to the effective date of the termination notice and reasonable shutdown costs. If Implementer's actual costs are less than payments implementer received before effective date of termination notice, Implementer shall refund unspent dollars to IOU balancing accounts that tracks the gas and/or electric Public Goods Charge fund

In all cases, termination shall become effective on the last day of the notice period.

#### **17.1 Termination For Cause**

If Implementer fails to perform a material term or condition of this Agreement, and fails to cure such default within 30 business days after receipt of written Notice of Default and Termination from IOU, the ALJ or IOU may declare this Agreement terminated, effective on the last day of said notice period ("Termination Date"). Subject to ALJ approval, Implementer shall be paid for all undisputed work performed prior to the Termination Date, which payment shall not be unreasonably withheld.

Grounds for termination for cause include, but are not limited to the following situations:

- (1) the failure, refusal or inability of the Implementer to perform any material aspect of the Authorized Work in accordance with the Plan (except as specified in Section 18, "Force Majeure"); or
- (2) Implementer has become insolvent, has exhibited a pattern of failure to pay its bills, or has had checks for payment of its bills returned from suppliers and subcontractors due to insufficient funds; or
- (3) a court of law has enjoined Implementer from performing the Authorized Work; or
- (4) In the ALJ or IOU's reasonable judgment, the Authorized Work will not be completed in the specified time and the IOU

has requested Implementer to take steps necessary to accomplish the required progress and completion, and Implementer has failed to do so; or

- (5) misuse of IOU's name or logo in violation of Section 9 of this Agreement.

## **17.2 Termination for IOU's Reason**

With the approval of the CPUC Agreement Representative, IOU may terminate this Agreement, upon written notice to Implementer. Implementer shall take whatever action will minimize its claim against IOU. If IOU terminates this Agreement, Implementer shall not be entitled to any payment for lost or anticipated profits or overhead on uncompleted portions of the Authorized Work. Any reports, drawings or other documents prepared as part of the Authorized Work prior to the effective date of termination shall be delivered by Implementer to the IOU prior to releasing any final payments to Implementer.

## **17.3 CPUC Jurisdiction**

If the Agreement is terminated, any reports, drawings, specifications, software programs, or other documents required to be prepared and delivered to the CPUC and/or Utility Agreement Representative as part of the Authorized Work which are prepared by Implementer prior to the effective date of such termination shall be delivered to the CPUC and/or IOU Agreement Representative by Implementer prior to the CPUC's approval of and the IOU's release of the final payment owed to Implementer.

In no event shall the CPUC or IOU be liable for lost or anticipated profits or overhead on uncompleted portions of the Authorized Work.

## **18. NON-WAIVER**

None of the terms, covenants or conditions of this Agreement shall be considered waived by either Party unless such waiver is specifically stated in writing.

## **19. ASSIGNMENT**

IOU may be required by the CPUC to assign its rights, duties and obligations under this Agreement to the CPUC and/or its designee. Implementer hereby consents to such assignment.

Implementer shall not assign its rights, duties, and obligations under this Agreement without the prior written approval of the CPUC. Unless otherwise expressly agreed by the CPUC, Implementer shall remain responsible for the quality and timeliness of performance notwithstanding any assignment, or other delegation.

## **20. FORCE MAJEURE**

Neither Party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this Section, Force Majeure is defined as: Acts of war and acts of God such as earthquakes, floods and other natural disasters, or actions of others, including but not limited to strikes, lockouts or other industrial disturbance, not within the control or arising from the fault of the Party claiming Force Majeure.

The Party affected by a Force Majeure Event ("Affected Party") shall be excused from performing its obligations under this Agreement to the extent that such performance is prevented or delayed due to the delay occasioned by a Force Majeure event; provided, however, that the suspension of performance is of no greater scope and of no longer duration than is required by such Force Majeure event.

## **21. NON-DISCRIMINATION CLAUSE**

Implementer and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Implementer and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Implementer and subcontractors shall comply with the applicable provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Implementer and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other similar agreement.

Implementer shall include the nondiscrimination and compliance provisions of this clause in all subcontracts related to this Agreement for the Authorized Work.

## **22. RIGHT TO AUDIT**

Implementer agrees that the IOU and/or the CPUC Agreement Representative, or its designated representatives, shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement or the Authorized Work. Implementer agrees to maintain such

records for possible audit through December 31, 2006. Implementer agrees to allow the auditor(s) reasonable access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Implementer agrees to include a similar right of the CPUC and IOU to audit records and interview staff in any subcontract related to performance of the Authorized Work or this Agreement.

## **23. INDEPENDENT CONTRACTOR**

Implementer, and the agents and employees of Implementer, in the performance of the Authorized Work, shall act in an independent capacity and not as officers, employees or agents of the CPUC or IOU. Nothing in this Agreement shall be construed so as to render Implementer, or any persons hired by Implementer, an employee, agent, representative, joint venturer or partner of the CPUC or IOU, and neither Implementer nor its employees or subcontractors shall hold themselves out to others in such capacity.

## **24. INTELLECTUAL PROPERTY RIGHTS**

### **24.1 Ownership Of Deliverables**

The CPUC shall own all data, reports, information, manuals, computer programs, works of authorship, designs or improvements of equipment, tools or processes (collectively "Developments") or other written, recorded, photographic or visual materials, or other deliverables produced in the performance of this Agreement. Developments do not include equipment or infrastructure purchased for research, development, education or demonstration related to energy efficiency. Implementer shall retain no ownership, interest or title in the Developments except as may otherwise be provided in **Attachment A**.

### **24.2 Use And Reproduction Rights**

If and to the extent that Implementer retains any preexisting rights to any materials furnished under this Agreement, including Developments, Implementer hereby grants to IOU and the CPUC the irrevocable, perpetual, non-exclusive, worldwide, royalty free right and license to make, use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based on such preexisting rights and derivative works thereof. Any claims of Implementer to proprietary rights in materials furnished under this Agreement must be explicitly set forth in this Agreement.

### **24.3 Infringement Protection**

Implementer represents to IOU and CPUC that the material prepared under this Agreement will not infringe on the copyright, patent, or license, or otherwise

violate the proprietary rights, including trade secret rights, of any person or entity. Implementer agrees to indemnify and hold IOU and its parent company, and the CPUC, harmless from and against all liabilities, costs and damages arising out of such infringement, as well as claims of infringement. Implementer further agrees to pay any judgment or reasonable settlement offer resulting from a suit, demand or claim, and pay any reasonable attorney's fees incurred by IOU or CPUC in defense of such a suit.

#### **24.4 Claims Substantiation**

Implementer represents that it has adequately substantiated all claims made as part of the Authorized Work according to the requirements of California and federal law. Implementer shall substantiate claims made in all program materials, including but not limited to: program descriptions, web sites, fact sheets, brochures, and advertisements ("Program Materials"). Claims include, but are not limited to, statements about the energy efficiency, safety, reliability, or performance of a piece of equipment or category of energy efficiency measures.

For each Program Material, Implementer shall identify all claims, and shall have written evidence and data to substantiate the claim. Implementer shall provide the claims and claims substantiation to the IOU or CPUC Agreement Representative within five (5) business days of a request. If IOU or the CPUC Agreement Representative determines that the evidence or data that Implementer has submitted to IOU is inadequate to substantiate the claim, then Implementer shall either provide additional evidence or data, that in IOU's or CPUC's sole discretion is adequate to substantiate the claim, or redraft or eliminate the claim so that the data and evidence, in the IOU or CPUC Agreement Representative's sole discretion, adequately supports the claims made.

Implementer agrees to indemnify and hold IOU and its parent company, and the CPUC, harmless from and against all liabilities, costs and damages arising out of or related to claims that are inadequately substantiated. Implementer further agrees to pay any judgment or reasonable settlement offer resulting from a suit or demand, and pay any reasonable attorney's fees incurred by IOU or CPUC in defense of such a suit.

#### **25. NOTICES OR DEMANDS**

Any written notice, demand or request required or authorized in connection with this Agreement, shall be deemed properly given if delivered in person or sent by facsimile, nationally recognized overnight courier, or first class mail, postage prepaid, to the address specified below, or to another address specified in writing by a Party. Notices shall be addressed as follows:

**CPUC AGREEMENT REPRESENTATIVE**

Name:  
Attention: \_\_\_\_\_  
Address:  
Telephone:  
Fax:

**IMPLEMENTER AGREEMENT REPRESENTATIVE**

Name:  
Attention: \_\_\_\_\_  
Address:  
Telephone:  
Fax:

**IOU AGREEMENT REPRESENTATIVE**

Name:  
Attention: \_\_\_\_\_  
Address:  
Telephone:  
Fax:

Notices shall be deemed received by the Agreement Representative (a) if personally or hand-delivered, upon the date of delivery to the address of the person authorized to receive such notice if delivered before 5:00 p.m., or otherwise on the business day following personal delivery; (b) if mailed, three business days after the date the notice is postmarked; (c) if by facsimile, upon electronic confirmation of transmission, followed by telephone notification of transmission by the noticing Party; or (d) if by overnight courier: on the business day following delivery to the overnight courier within the time limits set by that courier for next-day delivery.

**26. UNENFORCEABLE PROVISION**

In the event that one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement.

**27. GOVERNING LAW**

This Agreement shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction. Any controversy or claim arising out of or in any way relating to this Agreement which cannot be amicably settled without court action shall be litigated in a California State Court of competent jurisdiction; or if jurisdiction over the action cannot be obtained in a California

State Court, in a Federal Court of competent jurisdiction situated in the State of California.

**28. SECTION HEADINGS**

Section headings appearing in this Agreement are for convenience only and shall not be construed as interpretations of text.

**29. SURVIVAL**

Notwithstanding completion or termination of this Agreement, or any amendment to this Agreement, the Parties shall continue to be bound by the provisions of this Agreement and subsequent Amendment(s), including the indemnification and insurance provisions, which by their nature shall survive such completion or termination.

**30. ATTORNEYS' FEES**

In the event of any legal action or other proceeding between the Parties arising out of this Agreement or the transactions contemplated herein, the prevailing Party in such legal action or proceeding shall be entitled to have and recover from the other Party all costs and expenses incurred therein, including reasonable in-house and outside attorneys' fees.

**31. AMENDMENT; MODIFICATION**

No modification or change to this Agreement shall be binding or effective unless expressly set forth in writing and signed by the CPUC Agreement Representative, IOU and Implementer. No oral understanding or agreement not incorporated in this Agreement is binding on any Party.

**32. COMMISSION AUTHORITY TO MODIFY/REGULATORY REVIEW**

32.1 This Agreement is entered into in furtherance of D.01-11-066, D. 02-03-056 D.02-05-046, and D.02-06-026 and shall at all times be subject to such changes or modifications by the CPUC as it may from time to time direct in the exercise of its jurisdiction.

32.2 This Agreement is conditioned upon, and shall not be effective, until five (5) business days after the assigned ALJ issues a decision or ruling that in terms satisfactory to both Implementer and Utility approves the reasonableness of this Agreement. The terms shall be considered to be satisfactory to a Party if that Party does not file a written objection within 5 business days of issuance of the ALJ decision or ruling.

**33. COMPLETE AGREEMENT**

# **PACIFIC GAS & ELECTRIC COMPANY**

## **2002 LOCAL PROGRAM**

### **PROGRAM TITLE SPECIFIC CONDITIONS**

#### **1.0 INTRODUCTION**

##### **1.1 Program Overview:**

##### **1.2 Energy Reduction Targets:**

#### **2.0 DEFINITIONS [Delete those that do not apply]**

The definitions found in the main body of the Agreement are supplemented with the terms defined below:

CPUC or Commission - The California Public Utilities Commission.

Customer – A residential or business receiving electric and/or gas distribution service from IOU and paying the Public Goods Charge.

Energy Efficiency – The use of Energy Efficiency products, services and practices or an energy-using appliance or piece of equipment to reduce energy usage while maintaining a comparable level of service when installed or applied on the customer side of the meter.

Measures, Energy Efficiency Measure or EEM - Products or services provided to customers that are designed to save energy and demand.

IOU Agreement Representative: The IOU authorized representative responsible for administering this Contract, monitoring Contract dollar amount for IOU and authorizing invoices for payment.

Project – The installation of Measures at a Customer facility.

#### **3.0 SCOPE OF WORK**

##### **3.1 [For direct install programs only] Inspection and Quality Assurance**

3.1.1 Implementer shall develop and implement Program “Quality Assurance Procedures” to ensure that the installed EEMs meet the product specifications and installation standards ~~described in Section 3.4 below~~ outlined in their proposal and implementation plan. Implementer shall submit a copy of the Quality Assurance Procedures to the IOU Agreement Representative.



3.1.2 The IOU may utilize the following methods to verify that EEMs are installed and operating: post installation on-site verification, work-in-progress on-site verification, product invoices, or other verification procedure, as appropriate. IOU reserves the right to conduct as many inspections as needed to ascertain that Implementer has completed the EEM installations as reported. In order to accommodate the inspection process, Implementer shall, upon IOU Agreement Representative request, provide the most current installation schedule showing date and location where EEM installations have been scheduled. In addition, Implementer shall submit the EEM installation and Customer data described in Section ## herein (refer to Generic Deliverables, see separate document) electronically in Excel or Access upon IOU Agreement Representative request. Implementer shall ensure that IOU has access to the Customer site(s) for all verification inspections.

~~3.1.3 At the IOU's and/or EM&V Plan contractor's discretion, Implementers shall submit original showerheads and incandescent lamps that have been removed for inspection. IOU and/or the EM&V Plan contractor will randomly inspect a sample of the replaced showerheads and/or incandescent lamps to determine if:~~

- ~~1) Only showerheads have flow rates in excess of 3.0 gpm are replaced, and~~
- ~~2) Only operating incandescent bulbs and no burnt out bulbs are replaced.~~

~~The IOU shall apply the inspection pass rate of replaced showerhead and incandescent lamps across the board for all showerheads and/or incandescent lamps submitted in that batch.~~

3.1.4 IOU's verification inspection or review of the design, construction, operation, or maintenance of the Implementer's installation of EEMs shall not constitute any representation as to the economic or technical feasibility, operational capability, or reliability of the EEMs. The Implementer shall in no way represent to any third party that IOU's verification inspection or review of the EEMs is a representation by IOU as to the economic or technical feasibility, operational capability, or reliability of such EEMs. The Implementer is solely responsible for the economic and technical feasibility, operational capability, and reliability of the Implementer's EEM installations.

3.1.5 If IOU's inspection reveals discrepancies between Implementer's reported EEMs and actual EEMs found, Implementer will be given 15 calendar days to make on-site corrections and to revise and resubmit the information provided to IOU Agreement Representative. Up to 5% of the EEM installations will be inspected at no charge to the Implementer. If IOU determines that more than 5% of inspections are needed to ascertain satisfactory completion of Implementer's work, IOU will at its sole discretion increase the number of inspections and charge Implementer for the additional inspections above 5%. Implementers shall also pay for IOU costs associated with re-inspecting failed inspections. The IOU inspection charges shall be deducted from the Implementer's payment.

### 3.2 [For direct installation programs only] Carbon Monoxide Testing

Implementer must conduct post-installation carbon monoxide (CO) check will be performed when any work is done on or associated with a natural gas appliance. Implementer shall abide by the local IOU standard on performing CO checking which the local IOU will provide to the implementer. **Combustion Appliance Safety Test for Infiltration Measures**

~~3.2.1 Infiltration measures are those energy efficiency measures installed in a residential dwelling that affect the home's infiltration of air, including duct leakage, shell infiltration, or shell exfiltration, including but not limited to the following:~~

- ~~▪ Door weather stripping~~
- ~~▪ Caulking~~
- ~~▪ Minor Home Repairs, including but not limited to: door thresholds, thresholds repaired, windows repaired, windows replaced, window panes replaced, glazing compound, doors replaced, attic access installed, wall repair, door repair, combustion ventilation air openings, floor repairs, ceiling repairs and any other work in support of infiltration and non-infiltration measures~~
- ~~▪ Attic access weather stripping~~
- ~~▪ Evaporative cooler covers~~
- ~~▪ Outlet gaskets~~
- ~~▪ Duct sealing~~

~~3.2.2 Implementer shall perform a Combustion Appliance Safety (CAS) Test on all household combustion appliances, in accordance with the IOU's combustion appliance safety procedures, before any infiltration measures are installed. IN NO CASE SHALL ANY MEASURE BE INSTALLED AFTER A FAILED CAS TEST, UNTIL THE SAFETY PROBLEM HAS BEEN CORRECTED.~~ 3.2.3 Prior to the installation of any measure that requires a CAS test, Implementer shall present and have signed by the Customer, the CAS Information Sheet included in Attachment D, CAS Test Forms. By signing, the Customer acknowledges an understanding that: A pre- and post-CAS test will be performed and that in the case of an unrepairable failure the gas line will be disconnected from the combustion appliance. The Customer should also understand that they are giving IOU the right to access the premises in the event of an unrepairable failure in order to render the situation safe.

~~3.2.4 For each CAS test conducted, Implementer shall complete a Combustion Appliance Safety Test Contractor Report included in Attachment D, CAS Test Forms, and submit to IOU Agreement Representative.~~

### 3.3 [For rebate programs only] Inspection and Quality Assurance

3.3.1 [This paragraph applies only if the Implementer did not propose a QA plan.] Implementer shall develop and implement Program Quality Assurance Procedures to ensure that the all EEMs rebated are installed and operating, and meet the product specifications or standards described in Section 3.5 below. Implementer shall submit a copy of the Quality Assurance Procedures to the IOU

Agreement Representative.

3.3.2 The IOU may utilize the following methods to verify that the rebated EEMs are installed and operating: post installation on-site verification, product invoices, or other verification procedure, as appropriate. IOU reserves the right to conduct as many inspections as needed to ascertain that EEMs are installed as reported. In order to accommodate the inspection process, Implementer shall, upon IOU Agreement Representative request, provide the EEM rebate and Customer data described in Section ## (refer to Generic Deliverables; see separate document) herein electronically in Excel or Access upon IOU Agreement Representative request. Implementer shall ensure that IOU has access to the Customer site(s) for all verification inspections.

3.3.3 IOU's verification inspection or review of the design, construction, operation, or maintenance of the EEMs rebated by Implementer shall not constitute any representation as to the economic or technical feasibility, operational capability, or reliability of the EEMs. The Implementer shall in no way represent to any third party that IOU's verification inspection or review of the EEMs is a representation by IOU as to the economic or technical feasibility, operational capability, or reliability of such EEMs.

3.3.4 If IOU's inspection reveals discrepancies between Implementer's reported EEMs and actual EEMs found, Implementer will be given 15 calendar days to make revise and resubmit the information provided to IOU Agreement Representative. Implementer shall be solely responsible for obtaining Customer refund of any overpayment of rebates. Implementer shall report the status of Customer refunds and deduct the refunded amounts from the following month's expenditures reported in Implementer's Monthly Report.

3.3.5 Up to 5% of the EEM installations will be inspected at no charge to the Implementer. If IOU determines that more than 5% of inspections are needed to ascertain satisfactory completion of Implementer's work, IOU will at its sole discretion increase the number of inspections and charge Implementer for the additional inspections above 5%. Implementers shall also pay for IOU costs associated with re-inspecting failed inspections. The IOU inspection charges shall be deducted from the Implementer's payment.

### ~~3.4 [For direct install programs only] Product Energy Efficiency and Installation Standards~~

~~For all EEM installations, Implementer shall comply with IOU product energy efficiency and installation standards for retrofit as described in Exhibit B Product Energy Efficiency and Installation Standards [insert if applicable].~~

### ~~3.5 [For rebate programs only] Product Standards~~

~~For all EEMs which are paid an incentive under the Program, Implementer shall utilize the same or higher product energy efficiency standards as IOU energy efficiency programs. For example, all lighting measures for which there is an ENERGY STAR® rating must be ENERGY STAR® certified to qualify for incentive payment.~~

### **3.6 Evaluation, Measure and Verification (EM&V)**

3.6.1 Implementer shall fulfill all commitments specified in the CPUC-approved Evaluation, Measurement, and Verification Plan (hereinafter, "the Plan") and to submit or cause to be submitted plan deliverables to the IOU and CPUC Agreement Representatives in accordance with the schedule specified in the Plan.

3.6.2 Implementer shall cooperate fully with the Plan contractor and subcontractors and provided all requested information, if any, to assure the timely completion of all Plan tasks requiring Implementer involvement or cooperation.

3.6.3 Implementer shall make timely payments to the Plan contractor and subcontractors, so long as the Plan contractor and subcontractors have reasonably performed the work specified in the Plan. Implementer shall not withhold payment due to unfavorable EM&V findings.

### **3.7 Reporting**

~~3.7.1 Implementer shall provide all reports as described in Section 3.2 of the Agreement. In addition, the Monthly Report shall include a detailed summary of all Program activities and accomplishments and attach all required deliverables completed. (Please note that this may be somewhat duplicative of what's in the GCs. The purpose of this language is to let Implementers know that they must submit required deliverables.)~~

3.7.2 Implementer shall submit a Final Report to IOU Contract Manager. The final report shall include: cumulative budget, expenditure, savings, and other Program activity information for the duration of the Program, and actual comparisons against original Program savings goals. Implementer shall also include any independent or separate EM&V reports in the Final Report either as an attachment or incorporated into the actual report text. This Final Report shall form the basis for evaluating the final payments based on Program performance. ~~(Please note that the Final Report is not described in the GCs. The above language was taken from the Policy Manual.)~~

### **3.8 [For programs that develop technical reports] Technical Reports**

3.8.1 Implementer shall include the following language in all technical reports:

#### **LEGAL NOTICE**

THIS REPORT WAS PREPARED AS A RESULT OF WORK SPONSORED BY THE CALIFORNIA ~~ENERGY COMMISSION~~ Public Utilities Commission (COMMISSION). IT DOES NOT NECESSARILY REPRESENT THE VIEWS OF THE COMMISSION, ITS EMPLOYEES, OR THE STATE OF CALIFORNIA. THE COMMISSION, THE STATE OF CALIFORNIA, ITS EMPLOYEES, CONTRACTORS, AND SUBCONTRACTORS MAKE NO WARRANTY, EXPRESS OR IMPLIED, AND ASSUME NO LEGAL LIABILITY FOR THE INFORMATION IN THIS REPORT; NOR DOES ANY PARTY REPRESENT THAT THE USE OF THIS INFORMATION WILL NOT INFRINGE UPON PRIVATELY OWNED RIGHTS. THIS REPORT HAS NOT BEEN APPROVED OR

DISAPPROVED BY THE COMMISSION NOR HAS THE COMMISSION PASSED  
UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION IN THIS REPORT.

**4.0 ACCESS AGREEMENT** (Please note: purpose of this agreement is so that customer understand what is to be done, and allow Implementer access to do the work.)

**4.1** Implementer may need access to customer facility. In each instance, Implementer shall:

- supply all necessary tools and materials to perform the services under this Contract.
- be responsible for obtaining a signed Access Agreement, Exhibit A or implementer's own comparable form, from an authorized representative of the Customer before Implementer can enter premises. The original signed Access Agreement shall be submitted to the IOU Agreement Representative as promptly as possible retained by the implementer for a period of three years from the end of contract, and provided to the IOU upon request. ~~IOU shall not authorize payment for work associated with any [insert audit or installations] for which IOU has not received a signed Access Agreement.~~

**5.0 PAYMENT TERMS**

**5.1** Implementer shall submit an invoice to IOU in accordance with the schedule outlined in Section 4.5 of the Agreement.

**5.2** In accordance with Section 4.2.2 of the Agreement, IOU payment to Implementer shall be dependent upon Implementer's satisfactory completion of tasks or achievement of goals, as demonstrated by deliverables submitted by Implementer. Satisfactory completion means that the deliverables are completed to the satisfaction of the IOU Agreement Representative. The cumulative total of all payments under the Contract shall not exceed \$\_\_\_\_\_.

**5.3** Implementer shall send monthly invoices to:

\_\_\_\_\_(insert utility address) ~~RAS Invoice Desk~~  
\_\_\_\_\_~~Pacific Gas and Electric Company~~  
\_\_\_\_\_~~P.O. Box 770000, N7G~~  
\_\_\_\_\_~~San Francisco, CA 94177~~

**6.0 REQUEST FOR DATA**

**6.1** IOU will share customer-specific information, which includes but is not limited to customer name, address, account number, billing information, usage history, and program participation history, only upon receipt of customer-signed Authorization To: Receive Customer Information or Act on a Customer's Behalf form, a copy of which is attached herein in Exhibit E.

**6.2** IOU may share energy efficiency program data as routinely reported to the

CPUC on an aggregated basis, including energy savings, unit accomplishments, and/or number of program participants, which may be reported by program, measure, end use, and/or other CPUC reporting categories. Request for program information that is not routinely reported to the CPUC will be reviewed on a case-by-case basis and only as resources allow. The above does not include any customer-specific information reported to the CPUC under PUC Code 583.

~~6.3 All Implementer requests for data will be charged a fee to be computed based on the hours worked multiplied by the billing rate of the IOU employee(s).~~

## **7.0 PUBLICATION OF CUSTOMER INFORMATION**

**7.1** Implementer may not publish any reports or produce any marketing and promotional materials that may contain customer specific information, including but not limited to Customer's name, logo, and Proprietary Information without:

- prior review and approval by Customer of the material to be published or produced
- obtaining a signed License to Use, a copy of which is attached herein in Exhibit G, from the Customer

## **8.0 Reasonableness Requirement**

In all cases, IOU requests and actions shall be reasonably designed to ensure program accountability and success and/or consumer protection,

**OPTIONAL EXHIBITS:**

**Exhibit A: Access Agreement**

**Exhibit B: Product and Installation Standard**

**Exhibit C: Measure Installation Form**

**Exhibit D: CAS Test Forms**

**Exhibit E: Authorization To: Receive Customer Information or Act on a Customer's  
Behalf**

**Exhibit F: Non-Disclosure Agreement:**

**Exhibit G: License to Use**

This Agreement, as defined herein, constitutes the complete and entire agreement between the Parties and supersedes any previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. There are no additions to, or deletions from, or changes in, any of the provisions hereof, and no understandings, representations or agreements concerning any of the same, which are not expressed herein, unless stated below. Neither Party has relied upon any representation, warranty, projection, estimate or other communication from the other not specifically identified in this Agreement.

The Parties hereby agree that no trade usage, prior course of dealing or course of performance under this Agreement shall be a part of this Agreement or shall be used in the interpretation or construction of this Agreement.

#### **34. COUNTERPARTS**

This Agreement may be executed in counterparts which, taken together, shall constitute a single instrument.

#### **35. AUTHORITY TO EXECUTE**

Each individual executing this Agreement on behalf of IOU and Implementer represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said Party, and that this Agreement is binding upon said Party in accordance with its terms and conditions.

#### **36. CONSTRUCTION OF AGREEMENT**

The terms and conditions of this Agreement shall not be construed against either party as the drafting party.

#### **37. CONFLICT OF TERMS**

Should a conflict exist between the main body of the Agreement and the Appendices, the main body of the Agreement shall control. Should a conflict occur in the Appendices, the Appendices shall control in following order: Specific Contract conditions, as applicable, Program Implementation Plan as approved by the assigned ALJ on June -, 2002, and data request responses submitted regarding the Program Implementation Plan, Implementation Report, Implementer's Proposal with Attachments, as approved by the CPUC on May 16 or June 6, 2002. Varying degrees of stringency among the main body of this Agreement and the Appendices are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon identification of any conflict or inconsistency in this Agreement.



**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

**UTILITY**

**IMPLEMENTER**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2002

Date: \_\_\_\_\_, 2002

## **ATTACHMENTS**

## **Exhibit B Product Energy Efficiency and and Installation Standards**

### **1. Introduction**

This Exhibit describes general product energy efficiency and installation standards relating to retrofit energy efficiency measures (EEMs) installed in residential dwellings. Section 2 describes the installation standards that are to be used in the process of installing EEMs. Section 3 summarizes other measure-specific standards. Section 4 specifies the IOU's policies with respect to ~~combustion appliance safety (CAS)~~ carbon monoxide testing.

### **2. Installation Standards**

- ~~•The Draft Statewide Weatherization Installation Standards developed for the Low Income Energy Efficiency (LIEE) Program must be followed for Energy Star® fixtures, Energy Star® compact fluorescents, ceiling insulation, weatherization measures, water heater blankets, low-flow showerheads, and faucet aerators. Copies may be obtained from the IOU Agreement Representative.~~
- ~~•The 2001 Single Family Residential Contractor Program Installation Standards must be followed for duct testing and sealing, AC diagnostics, wall insulation and high performance windows. These standards will be made available to Implementer~~
- ~~•All measures shall replace existing operational equipment that is not energy efficient. Replacement on burnout is not allowed under this Program.~~
- All measures must be new and installed. Resale measures, measures leased, rented, rebuilt or won as prizes in existing units do not qualify.
- ~~—Any measure not covered in the IOU standards shall defer to the Uniform Building Code or to the manufacturer's installation requirements~~

### **3. Other Measure-Specific Requirements**

#### **3.1 Duct Sealing**

Duct sealing may be in-stalled only in homes in which ~~central~~ air conditioning or heating is present. Duct testing is required to confirm that duct sealing is economic. Duct testing must be done in accordance with the Installation Standards for this Program as reported to the IOU at contract signing. ~~These Standards allow three options for estimating total system airflow: a simple approach using a default value of CFM per ton; the use of a flow capture hood/Duct Blaster®; and the use of a Duct Blaster® Manual protocol. Duct Sealing is feasible when total system duct leakage exceeds either of the following required minimums (thresholds): 1) 12% of system airflow estimated by the default method, or 2) 15% of system airflow measured with a flow capture hood/ Duct Blaster®; or Duct Blaster®. Duct sealing work must produce one of the following results (A or B).~~

- (A) ~~Standard Ducts: Total system~~ leakage (measured at 25 Pascals system pressure) must be reduced to either a) 12% or less of total system airflow estimated by the default method or b) 15% or less of total system airflow measured with a Flow Capture Hood/ Duct Blaster<sup>®</sup>, or Duct Blaster.
- (B) ~~Special Duct Conditions: Total system~~ leakage (measured at 25 Pascals system pressure) must be reduced by 60 cfm/ton, and all accessible leaks must be sealed as feasible in accordance with the RCP Installation Standards. The final total leakage may exceed the required minimum threshold of system airflow leakage listed in option A above if all of the accessible leakage sites have been sealed using materials and methods that are in accordance with the RCP Installation Standards. Leakage sites are considered inaccessible if they are located in panned floor joists between floors, ducts located in a building cavity, a building cavity or chase that is used as a duct, and/or cabinet toe-kick supply terminals. Platform return plenums (either inside of the house or in a garage), and panned joists adjacent to a crawlspace or garage are accessible leakage sites.

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After ducts are sealed, the airflow through the system shall be checked. If it is found too low, then corrective steps should be taken in accordance with the 2001 Single Family Residential Contractor Program Installation Standards, a copy of which may be obtained from the IOU Contract Manager.

### **3.2 Infiltration Reduction**

Infiltration reduction is restricted to weatherstripping of doors separating conditioned and unconditioned spaces, installation or replacement of door shoes, and installation or replacement of door thresholds. Door weatherstripping must meet local utility installation standards and materials must be approved by the utility prior to project installation. Door weatherstripping shall not be done if any of the following conditions is present: the existing weatherstripping is already consistent with installation standards; weatherstripping would create a safety hazard or physical hardship for the resident, such as use of a threshold for resident who uses wheel chairs or walkers that exceeds a half inch in height (UBC); the door has a fire rating greater than 20 minutes; the door is a metal door or a fire-rated doors that cannot be cut to accommodate a shoe; or a functional storm door is present. Moreover, if a door is on an combustion appliance enclosure, it may not be weatherstripped if the combustion appliance receives air from conditioned space (i.e. combustion air grilles present in the enclosure door or wall); or inadequate combustion air as defined in these installation standards is not provided to the appliance by existing vents.

### **3.3 Low-Flow Showerheads**

Low-flow showerheads must have flow rates of 2.5 gpm or less, and are eligible for incentives only if original showerheads have flow rates in excess of 3.0 gpm. Only *existing* showerheads may be replaced; the *addition* of showerheads is prohibited. Low-flow showerheads may not be installed if any of the following conditions is present: the existing showerhead(s) are required for medical reasons; the existing showerhead is cracked, or broken or missing; the shower is not mechanically functional; standard adapters will not work; or piping is in such poor condition that showerhead installation could cause plumbing problems. Low-flow showerheads and ball joints must be made of the same material as the shower arm and adapters. If the existing water pressure is 40 PSI or less a low-flow showerheads shall not be installed.

### **3.4 Water Heater Blankets**

Water heater blankets may not be installed on any water heater if any of the following conditions ~~is~~ are present: an existing blanket in satisfactory condition is present; external insulation is prohibited by the manufacturer and/or would invalidate the manufacturer/s warranty; internal insulation is R-16 or greater; the tank is located within 12" of a stove, range or cooktop; the water heating system utilizes a recirculating pump; the water heater tank capacity is greater than 100 gallons; the temperature and pressure (T&P) valve is not present, or is not located within 6 inches of the tank; the T&P valve is plugged or capped; a leak in the tank or water pipes is present; plastic piping is used in the cold or hot water lines to/from the tank; or there is not at least 1 inch of clearance on all sides of the tank prior to installation.

### **3.5 Faucet Aerators**

Faucet aerators may not be installed if any of the following conditions is present: aerators 3 ~~GPM~~gpm or less are already installed; the faucet has a special fitting for attaching an appliance (e.g., a portable dishwasher); the faucet does not provide hot water; the faucet or faucet threads are found to be damaged and/or leaky; or standard aerators will not fit. Aerators must be 2.5 ~~GPM~~gpm.

### **3.6 Lighting Measures**

Lighting ~~Measures~~ must be installed subject to the following conditions:

- All product classifications for which there is an Energy Star® rating
  - 1) must be Energy Star® certified, *or*
  - 2 a) must be Produced by a manufacturer with a least 5 Energy Star® rated CFLs, and
  - b) must meet the Energy Star® requirements for average lamps life, CRI, and lumens per watt, and

- c) must be produced with essentially similar components to the manufacturer's Energy Star® products, and
- d) no comparable Energy Star® rated exact alternative is available

- The lumen output of the Energy Star® bulb and/or Energy Star® fixture
  - 1) must be comparable with the lumen output of the existing incandescent or halogen product, or
  - 2) if the lumen output differs, it must provide an illumination level specifically preferred by the participant.
- ~~All product classifications for which there is an Energy Star® rating must be Energy Star® certified.~~
- ~~The lumen output of the Energy Star® bulb and/or Energy Star® fixture must be comparable with the lumen output of the existing incandescent or halogen product.~~
- Specialty lamps may only be replaced by a product recommended by the manufacturer to replace such a lamp. These specialty lamps include, but are not limited to: flood lights, vanity lights and lamps specifically designed for outdoor use. ~~And must have approval prior to installation.~~
- All globes, shades, and lenses must continue to fit the fixture as designed by the manufacturer. Compact fluorescent bulb elements may not protrude from the fixture significantly more than the incandescent bulb being replaced.
- Lights in low usage areas may not be retrofitted under this program. Low usage areas include, but are not limited to: closets, garage door openers, tool sheds, refrigerators and ovens.
- ~~Compact Fluorescent Lamps (CFL) Fluorescents may not be installed in areas with fewer than 4 hours of usage per day where the simple payback would be greater than 5 years.-~~
- ~~Compact Fluorescents CFLs may not be used to replace burned out bulbs. They must be installed only in fixtures with operating incandescent bulbs.~~
- Hard-wired fixtures are fixtures that are permanently affixed to wall/ceiling electrical boxes.
- ~~Energy Star®~~ Energy efficient torchiere portable lamps must replace existing halogen torchiere portable lamps that operate at more than 150 watts. The replaced lamp must be made permanently inoperable and its materials recycled in an environmentally safe manner, consistent with state and local laws.

For multi-family buildings, Lighting space types are defined as follows:

- Dwelling unit lighting is lighting that is controlled by the tenant.
- Exterior area lighting is common area lighting not controlled by the tenant.
- Other common area lighting is lighting in areas subject to periodic occupancy, such as game rooms, laundry rooms, and exercise rooms.

### **3.7 Ceiling Insulation**

Ceiling insulation shall be installed only if the pre-retrofit insulation level is less than R-12. Attic insulation may not be installed if any of the following conditions is present: the roof is leaky or shows signs of water damage from leaks; adequate venting is not present and can not be installed per installation standard attic ventilation guidelines; hazardous electrical wiring or other hazardous conditions are present; an enclosed cavity as defined in the installation standards is present; exhaust vents terminating in the attic can not be vented to the outside by reconnecting vents or addition of exterior venting under minor home repair; disconnected or damaged space heating / cooling ducts are present and can not be repaired; all required blocking/shielding can not be installed; an inspector can not gain safe physical access to all treated areas of the attic; there is less than 24" clearance between top of floor joist and bottom of ridgebeam ~~rafters~~; interior or gable access meeting installation standard guidelines is not present and can not be installed; non-structural obstructions are present; a substandard framed structure that will not support the weight of the insulation and installer is present. Moreover, attic insulation may not be installed if knob-and-tube (K&T) wiring is present *and* either the knob-and-tube wiring is functional but can not be certified safe by a C-10 contractor and meet all CEC 324-4 provisions, or K&T wiring is *abandoned* but has not been disconnected and/or certified as abandoned by a C-10 contractor; or **insulation over K&T wiring is prohibited by local codes (Live or dead)**. The Implementer is responsible for ensuring that the installation of ceiling insulation will not result in a hardship or an inability to perform maintenance in an attic. If the Implementer fails in this responsibility, the Implementer will be held accountable for the correction.

### **3.8 Wall Insulation**

Wall insulation may only be installed under the following conditions:

- Wall venting must comply with the local building department codes or the Uniform Building Code requirements.
- ~~■ Ceiling must be structurally sound to support the weight of the insulation and crew.~~  
Wall Insulation?
- No hazardous electrical wiring is present.
- Work does not disturb asbestos or other hazardous material.
- Where local building departments do not allow insulation over knob-and-tube wiring, the live knob-and-tube wiring must be certified safe by an electrical contractor licensed in the state of CA. Some local jurisdictions require dead knob and t&T wiring to be removed before insulating so that it cannot be re-energized.
- The installed insulation achieves a minimum of R-13.

### **3.9 Floor Insulation**

Floor insulation may not be installed if any of the following conditions is present: already insulated or partially insulated; crawl space cannot be properly vented; floor is over a heated space; hazardous electrical wiring present; deteriorated or substandard subfloor present; accessibility does not meet specifications of program Policy & Procedures; hazardous insect infestation present; excessive ground moisture and no ground cover; health or safety hazard present; and any work that will disturb asbestos or other hazardous material; an inspector can not gain safe physical access to all treated areas of the crawl space; there is less than 24" clearance between bottom of floor joist and top of the ground; and non-structural obstructions are present. Moreover, floor insulation may not be installed if knob-and-tube (K&T) Wiring is present and either the knob-and-tube wiring is functional but can not be certified safe by a C-10 contractor, or K&T wiring is abandoned but has not been disconnected and/or certified as abandoned by a C-10 contractor; or insulation over K&T wiring is prohibited by local codes. The Implementer is responsible for ensuring that the installation of floor insulation will not result in a hardship or an inability to perform maintenance in a crawl space. If the Implementer fails in this responsibility, the Implementer will be held accountable for the correction.

### **3.10 Timers**

The IOU Agreement Representative will approve all electric water heater timers prior to project installation. The timers shall be UL Listed and be properly sized to meet water heater manufacturers voltage and wattage requirements. All timer installations must meet all local codes and NEC/CEC codes and have a six-hour battery back-up capability. Permit numbers must be included if local codes mandates.

### **3.11 Refrigerators**

All refrigerators replaced in this Program must be operational at time of replacement and must be recycled in an environmentally safe manner outside any utility recycling program, including proper disposal of refrigerant consistent with state and local laws.

### **3.12 Central Air Conditioners**

All air conditioning installed under this program shall be properly sized for the space they are designed to condition. It is not acceptable to install air conditioning that exceeds the capacity of the equipment being replaced without, in IOU Agreement Representative's sole determination, sufficient documentation showing that additional air conditioning is needed. All air conditioning installed under this Program must achieve energy and demand savings relative to the equipment being replaced.



### **3.13 Boiler and Water Controls**

Implementer shall:

- Install controllers as per the manufacturers' installation instructions;
- Provide a fifteen-year warranty on parts and labor for all water heater controller installations. The fifteen year warranty shall include battery replacement if batteries are required to maintain memory control logic in the event of a power outage, and if the lifetime of batteries is less than fifteen years;
- Install controllers only in buildings without existing water heater controllers.

### **3.14 High Performance Windows**

High performance windows may not be installed when installation will disturb asbestos or other hazardous material.

## **4. ~~Combustion Appliance Safety Testing~~ Carbon Monoxide Testing**

Implementer must conduct ~~pre- and post-installation carbon monoxide (CO) check~~  
~~Combustion Appliance Safety (CAS)~~ will be performed when any work is done on or  
associated with a natural gas appliance. OPTION: Or meet the local IOU standard on  
performing CO checking which the local IOU will provide to the implementer ~~testing in when~~  
~~duct sealing and/or infiltration reduction is done. IN NO CASE SHALL ANY MEASURE BE~~  
~~INSTALLED AFTER A FAILED CAS TEST, UNTIL THE SAFETY PROBLEM HAS BEEN~~  
~~CORRECTED. Descriptions of these testing requirements may be obtained from the IOU~~  
~~Agreement Representative. The cost associated with these tests shall not be borne by the~~  
~~IOU.~~